



DECISION NOTICE EVERSON BENCH CONSERVATION EASEMENT

Region 4 Headquarters
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DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVE CONSIDERED:

Proposed Action

Montana Fish, Wildlife & Parks (MFWP) is proposing to purchase and manage a conservation easement (CE) on 1,733 acres owned by Keith and Runsigma Glass north of Denton, MT. This proposed CE, called the “Everson Bench Conservation Easement,” will protect and conserve in perpetuity ~ 1,733 deeded acres of mixed agricultural lands and sagebrush-grassland habitat adjoining the Coffee Creek and Arrow Creek Breaks in deer/elk hunting district (HDs) 426. The proposed CE serves as a gateway to ~9,000 acres of inaccessible of DNRC and BLM Upper Missouri Breaks National Monument lands. This CE would keep the property in private ownership, ensure habitat values are protected in perpetuity, and guarantee free public access for hunting and other recreational pursuits on and across CE lands, satisfying MFWP’s objectives in providing access and recreational opportunities to the public.

No Action

For the No Action Alternative, MFWP would not purchase the proposed Everson Bench CE. Keith and Runsigma Glass would continue to manage the Land as a farmland, possibly selling a portion of the property and there would be no guarantee of permanent conservation and public access on the Land.

MONTANA ENVIRONMENTAL POLICY ACT PUBLIC PROCESS:

MFWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information. MFWP released a draft Environmental Assessment (EA) for public review of the proposed action on October 26, 2020 and accepted public comment until 5:00 P. M. on November 25, 2020.

Notice of the proposal and availability of the Draft EA was published in the *Lewistown News Argus* and the *Great Falls Tribune*. Copies of the EA were distributed to Fergus County

Commissioners, neighboring landowners, interested individuals, groups, and agencies to ensure their knowledge of the proposed project. The EA was also available for public review on MFWP's web site (<http://fwp.mt.gov/>, "Recent Public Notices" and "Environmental Assessments") for the duration of the comment period. MFWP also issued a News Release.

SUMMARY OF PUBLIC COMMENT & RESPONSE TO COMMENTS:

FWP received 44 total written comments via email and written mail. A breakdown of the comments is as follows: 34 were in support of the proposed action (purchase of the conservation easement), 7 supported the No Action Alternative, 1 recommended tabling or postponing purchase, 1 supported a CE on only a portion of the Land, and 1 did not specify.

In their support, comments referenced the benefits of expanded perpetual public access (particularly adjacent BLM and DNRC lands), the benefits to sportsmen and women of Montana and people of Montana in general, the protection of the Land's Conservation Values, maintaining the lands in private ownership, and the retention/continuation of current agricultural practices. Many commenters also expressed gratitude for the landowners in their willingness to allow public access and work with the Department on this easement.

Negative comments or other issues within neutral or positive comments to be addressed are summarized via bullet points below; responses are provided in italics following each.

- The access provided is unrealistic and unreasonable. There should be more access points to make entry to the adjacent BLM lands easier. Motorized use should be allowed onto the BLM roads. Reasonable and realistic means that it should work for a handicapped person. *The landowner and MFWP negotiate access terms; it was the landowner's wish and MFWP's agreement that access should be non-motorized due to safety concerns and impacts to deeded lands due to off road travel by motorized vehicles. If this opportunity and terrain is insufficient for certain individuals, there are other areas that provide more appropriate access in those circumstances.*
- Montana FWP should not purchase private land. *As stated in the Draft EA, "Conservation easements are voluntary, binding agreements between a landowner and... MFWP, wherein MFWP purchases certain uses (rights) of the land..." FWP is not purchasing the land fee title, it would remain in private ownership.*
- The CE proposal should be tabled until more specific information on weed control, fence maintenance, and boundary signage are addressed than what is shown in the EA. *The Draft EA references noxious weeds in describing the Landowner's rights (also available in the Draft CE), wherein "the Landowners retain the rights to use agrochemicals for control noxious weeds..." as well as addressed from public scoping comments: "parking areas will be monitored and sprayed for noxious weeds on an annual basis.. Noxious weeds on adjacent public lands are controlled by those respective lessees." Fences are also referenced under the Landowner rights (the right to "construct, remove, maintain, renovate, repair, or replace fences necessary for generally-accepted agricultural activities"). Additionally, the Draft EA references the Management Plan: "Any new fence construction would follow the guidelines described in Attachment B, Appendix B (Landowner's Guide to Wildlife-Friendly Fences) to ensure the fences do not impede wildlife movements... within and through the land." Finally, boundary signage is also*

addressed in the EA (with similar language in the Draft CE) stating, “To minimize issues of trespass onto neighboring properties, boundary signs would be posted along the exterior of the Land, and particularly at any problem areas on deeded lands identified by neighboring landowners.” During the public informational meeting, the issue of additional boundary signage needs was raised by neighboring landowners who reported trespass issues. For following hunting seasons, additional Block Management signage, as well as CE boundary markers, will be placed on CE lands to minimize confusion. Language from the Draft EA, CE, and Management Plan are typical of other MFWP CEs that have undergone similar public process without need for further clarification. Finally, the final decision regarding approval of MFWP’s purchase of the proposed Everson Bench CE rests with the Fish & Wildlife Commission, not with the Fergus County Commissioners or Fergus County Planning Board.

- Several comments/concerns related to cattle grazing:
 - There should be no private cattle grazing on the proposed CE. *As stated in the Draft EA, under the CE terms, the Landowners retain the right to “raise, pasture, and graze livestock, and to lease pasture to another agricultural operator to raise, pasture, and graze livestock, provided that any livestock grazing maintains the Land’s Conservation Values.”*
 - The statement that no cattle grazing occurs on proposed CE lands is incorrect and the Management Plan is lacking in information on a grazing plan. The adjacent BLM lands must be grazed in order for the current landowner to maintain the lease. *The EA and Management Plan incorrectly state that no livestock grazing occurs on the Land; grazing currently occurs on a portion of the Monument Parcel and the adjoining BLM allotment (via sublease) as there are no fences between it and the adjacent BLM lease. Currently 65 cow/calf pairs and several bulls occupy the BLM lease and Monument Parcel from approximately 5/15 to 10/15. There is no additional grazing plan associated with this proposed CE; the landowner may continue to graze cattle in this portion of the Monument Parcel. The purchase of the proposed CE does not impact grazing on adjacent BLM lands which falls under jurisdiction of the BLM.*
 - FWP is proposing to implement a rest-rotation grazing system on the Everson Bench CE, with the possibility of rangeland improvements and associated effects on upland game birds (primarily, sharp-tailed grouse lekking, nesting, and brood-rearing habitat). What are the restrictions for expanding cropland, converting deeded and leased lands to rest-rotation grazing, and financial commitments from FWP? *MFWP is not proposing to implement additional grazing beyond what already occurs on the Land therefore no related infrastructure is currently required. Terms of the CE do not prohibit livestock grazing, and most MFWP CEs allow and/or even utilize livestock grazing as a means of habitat enhancement. It is unlikely that additional grazing outside what already exists will occur given infrastructure needs and logistics. Any new grazing proposal or rangeland improvements will not impede the Land’s Conservation Values, thereby would not have negative effects on native species (including sharp-tailed grouse). In typical MFWP CEs, infrastructure improvements may be completed via 50:50 cost-share*

between the landowner and MFWP. Maintenance beyond initial construction is the responsibility of the landowner.

- Lack of language specifying “non-motorized” use, and concerns about introduction to motorized use on adjacent public lands without specific language in the CE document prohibiting such. *The Draft EA (and Draft CE) specify that the Department will acquire the rights “on behalf of the general public, access by non-motorized means from public roads and rights-of-ways...” The Draft EA also states “All permitted activities [by the public] would be walk-in only (non-motorized) via designated parking areas.” Access terms are further clarified in the Management Plan, Appendix A, Hunting and Public Access Rules & Map.*
- What are the exact access terms not found in the draft CE document? *The Management Plan, specifically Appendix A, specifies hunting and recreational access terms on the proposed CE.*
- The EA states that the proposed Everson Bench CE advocates for 543 hunter days per 1733 acres. A neighboring property of 9000 acres supports only 96 hunter days with an average harvest of 12 mule deer bucks. Based on these numbers, estimated mule deer buck harvest on the proposed Everson Bench CE is 68 bucks/year, an unsustainable number. *The Draft EA states the Everson Bench Block Management Area (BMA) experienced 543 hunter days in 2019. The Draft EA and CE require a minimum of 350 hunter days to be provided when demand exists. Hunter use on adjacent properties is at the discretion of those landowners. There is no information available supporting that 68 bucks/year are harvested on the Everson Bench BMA, nor that this number would be unsustainable. Average annual harvest for HD 426 is 480 mule deer bucks/year across its 538,657 total acres. While deer distribution is not uniform across the HD, given the amount of habitat that exists it is unlikely that an overharvest of mule deer currently occurs on BMA lands. Furthermore, hunting on a general license is usually self-limiting; a significant decline in deer numbers across a particular area generally results in a decline in hunter participation as hunters will go elsewhere.*
- MFWP survey data shows hunter satisfaction on public land hunting to be “extremely low.” Therefore, MFWP should not be pursuing purchase of additional ground. Instead, MFWP should have programs that incentivize more access from private landowners. *MFWP is not aware of survey data showing “extremely low” hunter satisfaction on public lands, nor is MFWP pursuing purchase of deeded property (see first bullet point). MFWP has multiple programs to incentivize access on or across private lands, including but not limited to: the Block Management Program, Special Access Projects, Managed Access Project Sites, Long-term Hunting Access, House Bill 454, Access Public Lands, Unlocking Public Lands, game damage assistance, the Hunter-Landowner Stewardship Program, and Conservation Easements.*
- The EA states that the mouth of Coffee Creek is accessible, but it is not. There is also no legal access from the proposed Everson Bench CE to the Moline CE. There is also a lack of boundary-marking between BLM- and other privately-owned lands. The management plan does not require hunters to carry GPS, nor does it state MFWP will sign public lands to prevent other trespass onto private lands. *The Draft EA references the Land's location to be at/near the junction of Arrow and Coffee Creek and that it provides access to the Arrow and Coffee Creek breaks. It does not specify access to Coffee Creek itself. Nor*

does it state there is access from the proposed Everson Bench CE to the Moline CE; both CEs provide/would provide access to different portions of BLM Monument lands. While the Management Plan does not require hunters to carry GPS, it does encourage them to do so and that it is the user's responsibility to know where they are in relation to neighboring lands. Maps and rules would also be provided to the public in the future should the project be completed. Furthermore, as it has been highlighted as a concern, MFWP will be marking CE/BMA boundaries in problem areas and working with the BLM to determine if signage could be placed at public land boundaries as well. Otherwise, it is generally the responsibility of the private landowner to post their own property boundaries with adjacent public lands.

- The weed compensation afforded by MFWP to Block Management participants is not sufficient for neighboring landowners. With a CE, hunters will spread noxious weeds to neighboring private lands, and this needs to be accounted for. *The weed compensation is not meant for adjacent landowners; it is meant for landowners enrolled in the Block Management Program who deal with the bulk of weed introduction related to Block Management-user impacts. Users/recreationists are not permitted to trespass onto adjacent private lands without permission, thus the spread of noxious weeds in this manner would be minimal or nonexistent.*
- Purchase of the Everson Bench CE is a waste of taxpayer and hunter dollars, considering the amount of farmground proposed within. The appraised value of pasture and wild hay land in this area ranges from \$250-\$500/acre, so MFWP is proposing to purchase land at too high a price for what is being conserved. The agricultural lands provide marginal wildlife habitat. The BLM and DNRC lands adjacent to the proposed CE are not under MFWP jurisdiction to protect. *As stated in the Draft EA, funds towards the purchase of the proposed Everson Bench CE are not tax dollars. Additionally, an independent appraisal valued easement at \$967,500, or ~\$560/acre (CEs value at approximately 40% of the total land value). The landowner is donating \$327,500 of the appraised value, so MFWP is proposing to purchase the CE at \$640,000, or ~\$370/acre.*
- The proposed CE is too few acres in multiple parcels; the parcels on the east side of the road (Carter, Linse Lane) are a disservice to neighboring landowners but the western parcel (Monument parcel) would be appropriate as a CE. *MFWP sometimes purchases CEs that exist in multiple parcels. A CE on the property, particularly the eastern parcels, will have minimal additional impact to neighboring lands as the landowner is already enrolled in Block Management and allows hunting/recreational access on the property.*
- MFWP already cannot oversee the lands under their control. Unleashing an untold number of hunters into the local community results in unnecessary exposure of its residents to COVID; carriers will infect the soil via feces and urine. *COVID-19 is not spread through feces and urine, it is spread via aerial droplets. A CE on the Everson property will likely not bring additional people into the area than already come during the regular hunting season.*

DECISION:

In reviewing all the public comment, evaluating the environmental effects, and other relevant information, I recommend that MFWP pursue the completion of the Everson Bench

Conservation Easement Project and recommend the Fish & Wildlife Commission approve the proposed action as well. Ultimate decision authority is the Fish & Wildlife Commission.

Through the MEPA process, MFWP found no significant impacts on the human or physical environments associated with this proposal. Therefore, the EA is the appropriate level of analysis, and an environmental impact statement is not required.

After review of this proposal, it is my decision to accept the draft EA as supplemented by this Decision Notice and the summary/response to public comment contained herein. In combination, these documents constitute the Final EA. MFWP believes the completion of this project is in the best interests of working agricultural landscapes, fish and wildlife, and public recreation.



Gary Bertellotti
Region 4 Supervisor

11/30/2020

Date